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Attorneys for Defendant HOUSING
AUTHORITY OF THE CITY OF
LOS ANGELES

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

DARCEL HARRIS, by and through
T.H., his minor child, and DAPHNE
HAYWOOD, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

HOUSING AUTHORITY OF THE
CITY OF LOS ANGELES,

Defendant.

Case No. 2:23-cv-4339

Los Angeles Superior Court
Case No. 23STCV09791

[CLASS ACTION]

**DEFENDANT'S NOTICE OF
REMOVAL OF CLASS ACTION
TO FEDERAL COURT**

DIVERSITY-CAFA

Action Filed in State Court: May 2,
2023

Trial Date: None Set

PLEASE TAKE NOTICE that Defendant HOUSING AUTHORITY OF
THE CITY OF LOS ANGELES ("HACLA") hereby removes the above captioned
action from the Superior Court of the State of California, City of Los Angeles, to the
United States District Court for the Central District of California, under 28 U.S.C.
§§ 1332, 1441, 1446, 1453. In support of this Notice of Removal, HACLA states as
follows:

1 1. On or about May 2, 2023, Plaintiffs DARCEL HARRIS on behalf of
 2 his minor child T.H., and DAPHNE HAYWOOD (“Plaintiffs”) filed this class
 3 action against Defendant by filing a Class Action Complaint (“Complaint”) in the
 4 Superior Court of the State of California for the County of Los Angeles, Case No.
 5 23STCV09791, a true copy of which is attached hereto as **Exhibit A**. The
 6 Complaint asserts four causes of action for (1) negligence; (2) negligence per se; (3)
 7 breach of implied contract; and (4) violation of the California Consumer Records
 8 Act (“CRA”) (Cal. Civ. Code § 1798.80, *et seq.*).

9 2. The U.S. Supreme Court affirmed that a defendant need only plausibly
 10 allege the requirements for federal jurisdiction to remove. That is, a defendant needs
 11 to file in the federal forum a notice of removal only “containing a short and plain
 12 statement of the grounds for removal”; no evidentiary submissions need to be
 13 submitted. *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 553
 14 (2014) (citing 28 U.S.C. §1446(a)).

15 3. As more fully set forth below, this case is properly removed to this
 16 Court under 28 U.S.C. §§ 1441, 1446, and 1453 because HACLA has satisfied the
 17 venue and procedural requirements for removal, and because this Court has original
 18 jurisdiction over this action under 28 U.S.C. § 1332.

19 **I. THE REQUIREMENTS OF 28 U.S.C. §§ 1441 AND 1446 ARE MET.**

20 4. *Timeliness.* A notice of removal may be filed within 30 days after the
 21 defendant receives a copy of the initial pleading, motion, or other papers from which
 22 it may be ascertained that the case is removable. 28 U.S.C. § 1446(b). Upon
 23 information and belief, plaintiff served the Complaint on HACLA on May 4, 2023.
 24 Thus, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

25 5. *Removal to Proper Court.* The Superior Court of the State of
 26 California, for the County of Los Angeles, is located in the Central District of
 27 California. 28 U.S.C. § 84(c)(2). Thus, venue is proper because this is the “district
 28 and division embracing the place where such action is pending.” 28 U.S.C. §

1 1441(a); *see also* 28 U.S.C. § 1446(a).

2 6. *Procedural Requirements.* Section 1446(a) requires a removing party
3 to provide this Court with a copy of all “process, pleadings, and orders” served on it
4 in the state court action. A true and correct copy of the Complaint and all papers
5 served with the Complaint is attached hereto as **Exhibit A**. As required by 28
6 U.S.C. § 1446(d), HACLA will file an appropriate notice in the state court action
7 and will serve on all counsel of record a true and correct copy of this Notice of
8 Removal

9 7. No previous application has been made for the relief requested herein.

10 **II. REMOVAL IS PROPER BECAUSE THIS COURT HAS JURISDICTION UNDER 28**
11 **U.S.C. §§ 1332 AND 1441.**

12 8. This case is subject to removal under the Class Action Fairness Act of
13 2005. Pub. L. No. 109-2, 119 Stat. 4 (codified in various sections of 28 U.S.C.)
14 (“CAFA”).

15 9. As set forth below, this is a putative class action in which (1) there are
16 100 or more members in plaintiff’s proposed class; (2) at least some members of the
17 proposed class have a different citizenship from HACLA; and (3) the aggregate
18 amount in controversy exceeds \$5,000,000. Thus, this Court has subject matter
19 jurisdiction over this action under 28 U.S.C. §§ 1332(d) and 1453(b).

20 **A. Diversity of Citizenship.**

21 10. At least one member of the proposed class is a citizen of a state
22 different from HACLA. 28 U.S.C. § 1332(d)(2)(A).

23 11. Plaintiffs allege HACLA is a “state-chartered agency” with its principal
24 place of business in Los Angeles. Comp. ¶ 9.

25 12. Plaintiffs bring this suit on behalf of themselves and a putative
26 nationwide class of “[a]ll persons whose PII/PHI was compromised in or as a result
27 of the Data Breach that was discovered by Defendant on or around December 31,
28 2022.” Comp. ¶ 44. Plaintiffs allege they reside in Los Angeles and are citizens of

1 California. *Id.* ¶¶ 7-8. Plaintiffs allege HACLA “provides affordable housing to
 2 low-income individuals and families in Los Angeles, California. It also provides job
 3 training and education to eligible families.” *Id.* ¶ 9.

4 13. Unlike other diversity jurisdiction cases, “no anti-removal presumption
 5 attends cases invoking CAFA.” *Dart Cherokee Basin Operating Co., LLC v. Owens*,
 6 574 U.S. 81, 89 (2014).

7 14. Plaintiffs do not limit their putative nationwide class definition to
 8 California citizens or allege HACLA only offers its services to California citizens.

9 15. At least one putative class member is a citizen of a state other than
 10 California.

11 16. The diversity of citizenship between “any member of the class” and
 12 HACLA satisfies the minimal diversity requirement under CAFA. 28 U.S.C. §
 13 1332(d)(2)(A).

14 **B. CLASS ACTION CONSISTING OF MORE THAN 100 MEMBERS.**

15 17. As mentioned above, plaintiffs purport to represent a nationwide class
 16 of individuals. Comp. ¶ 44.

17 18. Plaintiffs allege upon information and belief that over 105,000
 18 individuals were affected by the data security incident. Comp. ¶ 4.

19 19. There are more than 100 members of the alleged putative class.

20 20. Based on the above, the aggregate number of members in plaintiffs’
 21 proposed class is greater than 100 for purposes of 28 U.S.C. § 1332(d)(5)(B).

22 **C. The Amount-In-Controversy Requirement Is Satisfied.**

23 21. HACLA disputes that the proposed class could ever be certified or that
 24 HACLA is liable for the claims plaintiffs assert in the Complaint.

25 22. The aggregate amount-in-controversy, exclusive of interest and costs,
 26 exceeds the \$5,000,000 jurisdictional minimum under CAFA. *See* 28 U.S.C. §§
 27 1332(d)(2), 1332(d)(6). While plaintiffs do not plead a specific amount of damages
 28 in the Complaint (and in the case of any injunctive relief, the cost for compliance

1 with the requested injunction), for the reasons set forth below, the aggregate
 2 amount-in-controversy here exceeds \$5,000,000. *Dart Cherokee*, 135 S. Ct. at 551
 3 (“When the plaintiff’s complaint does not state the amount in controversy, the
 4 defendant’s notice of removal may do so.”) (citing 28 U.S.C. § 1446(c)(2)(A)).

5 23. Plaintiffs seek, in relevant part, the following relief on behalf of the
 6 putative class:

- 7 • “economic damages and other injury and actual harm...” (Comp. ¶ 64)
- 8 • “damages, including compensatory and nominal damages,” (Comp. ¶ 83)
- 9 • “losses and damages” for *inter alia* “out-of-pocket expenses...” and “actual or attempted fraud,” (Comp. ¶ 91)
- 10 • “lost money or property...,” and “compensatory damages as well as injunctive relief...” (Comp. ¶ 86)
- 11 • “permanent injunctive relief...” (Comp. page 21 ¶ B)
- 12 • “compensatory, consequential, general, and nominal damages in an amount to be proven at trial,” (Comp. page 21 ¶ C)
- 13 • “costs of suit” (Comp. page 22 ¶ E)
- 14 • “reasonable attorneys’ fees” (Comp. page 22 ¶ F)
- 15 • “pre- and post-judgment interest at the maximum legal rate,” and (Comp. page 22 ¶ G)
- 16 • “such other relief as the Court deems just and proper.” (Comp. page 22 ¶ H).

17 24. **Actual Damages or Restitution.** Considering plaintiffs have alleged
 18 over 105,000 individuals were affected by the data security incident (Comp. ¶ 4),
 19 and they allege actual or future identity theft has affected putative class members
 20 and thus seek “compensatory, consequential, general, and nominal damages” for the
 21 putative class, this amount is likely in excess of \$5 million.

22 25. Plaintiffs requested relief of at least \$10,000.00 in letters sent to
 23 HACLA. Comp., Exs. D, E. Applying this to the putative class members in excess
 24 of 100,000 people easily exceeds the \$5 million requirement.

26. **Reasonable estimated cost of compliance with the requested injunctive relief.** The cost of injunctive relief can also count towards the \$5 million requirement. “The amount in controversy in class actions requesting an injunction may be determined by the cost of compliance by Defendant.” *Anderson v. SeaWorld Parks & Entm’t, Inc.*, 132 F. Supp. 3d 1156, 1161, 1164 (N.D. Cal. 2015) (citations omitted) (considering the effect of injunctive relief on *future* sales of tickets and revenue as a basis for CAFA amount in controversy requirements). Plaintiffs are not clear on the type of injunctive relief they would request, but the cost for HACLA to comply with any such ordered relief would likely not be de minimis.

27. **Attorneys’ Fees.** Plaintiff also seeks attorneys’ fees under Cal. Civ. Pro. Code § 1021.5, and costs. Comp. page 22 ¶¶ E-F. The Ninth Circuit held “where an underlying statute authorizes an award of attorneys’ fees, either with mandatory or discretionary language, such fees may be included in the amount in controversy.” *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998). California Code of Civil Procedure § 1021.5 authorizes attorneys’ fees if the public receives a benefit from the case. Again, while HACLA vehemently opposes wrongdoing or liability as alleged by plaintiffs, plaintiffs are pursuing this case as a putative class action because they believe the public, and not just themselves, are affected by and will receive a benefit from this case if they prevail. Accordingly, attorneys’ fees may be included in calculating the amount in controversy, which further increases the amount.

Based on the forgoing, HACLA respectfully requests removal of this action from the Superior Court of the State of California for the County of Los Angeles to this Court under 28 U.S.C. §§ 1332, 1441, 1446, and 1453.

1 DATED: June 2, 2023

JON P. KARDASSAKIS
BRANT H. DVEIRIN
DANIELLE E. STIERNA
LEWIS BRISBOIS BISGAARD & SMITH LLP

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6 By: /s/ Danielle E. Stierna
DANIELLE E. STIERNA
7 Attorneys for Defendant HOUSING
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FEDERAL COURT PROOF OF SERVICE

Darcel Harris, et al. v. Housing Authority of the City of Los Angeles
Los Angeles Superior Court Case No. 23STCV09791

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to the action. My business address is 633 West 5th Street, Suite 4000, Los Angeles, CA 90071. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On June 2, 2023, I served the following document(s):

**DEFENDANT'S NOTICE OF REMOVAL OF CLASS ACTION TO
FEDERAL COURT**

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

KOPELOWITZ OSTROW P.A.

Kristen Lake Cardoso (CA Bar No. 338762)

cardoso@kolawyers.com

Steven Sukert (pro hac vice forthcoming)

sukert@kolawyers.com

Jeff Ostrow (pro hac vice forthcoming)

ostrow@kolawyers.com

One West Las Olas, Suite 500

Fort Lauderdale, FL 33301

Telephone: (954) 525-4100

Counsel for Plaintiffs and the Proposed Class
DARCEL HARRIS

The documents were served by the following means:

☒ (BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and I deposited the sealed envelope or package with the U.S. Postal Service, with the postage fully prepaid.

☐ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on June 2, 2023, at Los Angeles, California.

/s/ Farnaz Moradpour

Farnaz Moradpour